

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**ROBERT E. LEE,**

**Plaintiff,**

**CIVIL ACTION NO. 05-CV-60238**

**vs.**

**DISTRICT JUDGE JOHN CORBETT O'MEARA**

**KARLA MCDONALD**

**MAGISTRATE JUDGE MONA K. MAJZOUB**

**Defendant.**

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**REPORT AND RECOMMENDATION DENYING DEFENDANT'S  
MOTION TO DISMISS**

Plaintiff, proceeding *in propria persona*, filed the instant civil rights complaint against Defendant on October 11, 2005. Plaintiff allegedly suffers from a mental illness. He claims that Defendant, in her capacity as an employee of Michigan Rehabilitation Services, denied him access to government services for which he should have been eligible.

Defendant filed a Motion to Dismiss Plaintiff's complaint on December 13, 2005. Plaintiff filed several pleadings<sup>1</sup> seeking the Court's assistance in adequately litigating his case and responding to Defendant's Motion. The Court assigned counsel to Plaintiff on May 22, 2006.

**RECOMMENDATION**

The original complaint in this case was unclear and difficult to follow, as many pleadings filed by non-lawyers are. The new complaint, by contrast, presents its claims and allegations clearly. Plaintiff's complaint has changed substantially. Defendant's Motion to Dismiss should be **DISMISSED** because it does not address Plaintiff's complaint as amended. If appropriate,

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<sup>1</sup>See docket numbers 16, 17, 21, and 23.

Defendant may file a new motion to dismiss in accordance with the Federal Rules of Civil Procedure.

Either party to this action may object to and seek review of this Report and Recommendation, but must act within (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636 (b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6<sup>th</sup> Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6<sup>th</sup> Cir. 1981). Filing objections which raise some issues but fail to raise others with specificity will not preserve all objections that party might have to this Report and Recommendations. *Willis v Secretary*, 931 F.2d 390, 401 (6<sup>th</sup> Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (tth Cir. 1987). Pursuant to Rule 72.1(d)(2) of the *Local Rules of the United States District of Michigan*, a copy of any objection must be served upon this Magistrate Judge.

Within ten (10) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be not more than five (5) pages in length unless by motion and order such page limit is extended by the Court. The responses shall address specifically, and in the same order raised, each issued contained within the objections.

Dated: June 21, 2005

s/ Mona K. Majzoub  
MONA K. MAJZOUB  
UNITED STATES MAGISTRATE JUDGE

**Proof of Service**

I hereby certify that a copy of this Order was served upon Counsel of Record on this date.

Dated: June 21, 2006

s/ Lisa C. Bartlett  
Courtroom Deputy